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OFFICE OF PETITIONS

In re Application of :
Kai Desinger et al :
Application No. 10/729,040 : **DECISION DISMISSING PETITION**
Filed: December 5, 2003 :
Attorney Docket No. 3002 :

This is a decision on the petition filed December 13, 2004, under 37 CFR 1.78(a)(3), which is also being treated as a petition under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application, and under 35 U.S.C. § 119 for the benefit of a prior-filed foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The amendment submitted with the instant petition improperly placed the claim for benefit to foreign Application No. DE 101 28 701.1, filed June 7, 2001, to be included with the domestic priority which is not in compliance with 37 CFR 1.63(c)(2). Therefore, the foreign application data should be included in a substitute declaration or a proper ADS in compliance with 37 CFR 1.76 as required.

A decision on the petition under 37 CFR 1.78(a)(3) will be held in abeyance pending a proper reply to the petition under 37 CFR 1.55(c).

Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

A handwritten signature in black ink, reading "Karen Creasy". The signature is written in a cursive, flowing style with a large initial "K" and "C".

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy